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SUPREME COURT OF THE UNITED STATES.

No. 138.

THE UNITED STATES, APPELLANTS,

vs.

ELI K. PRICE, EXECUTOR OF JOSEPH ARCHER.

APPEAL FROM THE CIRCUIT COURT U. S. FOR EAST PENNSYLVANIA.

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J. & G. S. Gideon, printers.

Pleas before the honorable the judges of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, at Philadelphia, of October session, 1843, No. 4.—It is thus contained:

To the honorable Henry Baldwin and Archibald Randall, justices of said court:

The United States of America bring their bill against Eli K. Price, executor of Joseph Archer, deceased, a citizen of Pennsylvania, and Charles Bispham, a citizen of the State of New Jersey. And thereupon Henry M. Watts, attorney of the said United States for the district aforesaid, and on their behalf, informeth and saith: that a certain James L. Mifflin and the said Joseph Archer, in his lifetime, duly sealed and delivered their bond to the said United States, dated the 7th day of May, A. D. 1828, whereby they and each of them bound themselves, their heirs, executors, and administrators, jointly and severally, to pay to the United States aforesaid the sum of fifty thousand dollars, conditioned that they or either of them, or either of their heirs, executors, or administrators, should, on and before the 7th day of May, 1829, well and truly pay the sum of one thousand four hundred and eighty dollars, as by their bond, to which said plaintiff craves leave to refer, when produced will appear. That the said sum of one thousand four hundred and eighty dollars, at the time in the condition of the said bond mentioned, was not paid, and thereupon the said United States commenced an action at law, in the district court of the United States, in and for the district aforesaid, against the said James L. Mifflin and Joseph Archer; and on the eighteenth day of May, A. D. 1829, obtained a judgment in their favor against the said defendants for the sum of one thousand four hundred and eighty dollars, with interest from the time the said bond became due, and the further sum of twenty dollars and sixty cents, the costs of said suit.

And the said plaintiff further sheweth, that the said James L. Mifflin and the said Joseph Archer, in his lifetime, duly sealed and delivered their certain other bond, dated the 26th day of May, A. D. 1828, whereby they and each of them bound themselves, as aforesaid, to pay as aforesaid the further sum of fifty thousand dollars, conditioned that they or either of them, or either of their heirs, executors, or administrators, should, on or before the 26th day of May, 1829, well and truly pay to the United States the sum of six hundred dollars, as by the said bond, to which the said plaintiff craves leave to refer, when produced will appear. That the said sum of six hundred dollars at the time in the condition of the said bond mentioned was not paid, and thereupon the said United States commenced an action at law, in the court aforesaid, against the said defendants, and on the 25th day of August, 1829, obtained a judgment in their favor against the said defendants for the sum of six hundred dollars, with

interest from the time that the said bond became due, and the further sum of twenty dollars and sixty cents, costs of the said suit

And the said plaintiff further sheweth, that the said James L. Mifflin and the said Joseph Archer, in his lifetime, duly sealed and delivered their certain other bond, dated the 31st day of May, A. D. 1828, whereby they and each of them bound themselves, as aforesaid, to pay as aforesaid the further sum of fifty thousand dollars, conditioned that they or either of them, or either of their heirs, executors, or administrators, should, on or before the 31st day of May, A. D. 1829, well and truly pay the sum of five thousand one hundred and ninety-four dollars and eighty cents, as by the said bond, to which the said plaintiff craves leave to refer, when produced will appear.

That the said sum of five thousand one hundred and ninety-four dollars and eighty cents at the time in the condition of the said bond mentioned was not paid, and thereupon the said United States commenced an action at law in the court aforesaid, and obtained a judgment in their favor against the said defendants on the 25th day of August, A. D. 1829, for the sum of five thousand one hundred and ninety-four dollars and eighty cents, with interest from the time the said bond became due, and the further sum of twenty dollars and sixty cents, the costs of said suit.

And the said plaintiff further sheweth, that the said James L. Mifflin and the said Joseph Archer, in his lifetime, duly sealed and delivered their certain other bond, dated the 30th day of June, A. D. 1828, whereby they and each of them bound themselves, as aforesaid, to pay as aforesaid the further sum of fifty thousand dollars, conditioned that they or either of them, or either of their heirs, executors, or administrators, should, on or before the 30th day of June, 1829, well and truly pay the further sum of five hundred and twenty-eight dollars and ten cents, as by the said bond, to which the said plaintiff craves leave to refer, when produced will appear. That the said sum of five hundred and twenty-eight dollars and ten cents at the time in the condition of the said bond mentioned was not paid, and thereupon the said United States commenced an action at law in the court aforesaid, and on the 25th day of August, A. D. 1829, obtained a judgment in their favor against the said defendants, for the sum of five hundred and twenty-eight dollars and ten cents, with interest from the time the said bond became due, and the further sum of twenty dollars and sixty cents, costs of the said suit.

And the said plaintiff further sheweth, that the said James L. Mifflin and the said Joseph Archer, in his lifetime, duly sealed and delivered, their certain other bond, dated the 8th day of July, A. D. 1828, whereby they and each of them bound themselves, as aforesaid, to pay as aforesaid the further sum of fifty thousand dollars, conditioned that they or either of them, or either of their heirs, executors, or administrators, should, on or before the 8th day of July, A. D. 1829, well and truly pay the further sum of three thousand seven hundred and sixty-seven dollars and fifty cents, as by the said bond, to which the said plaintiff craves leave to refer, when produced will appear.

That the said sum of three thousand seven hundred and sixty-seven dollars and fifty cents at the time in the condition of said bond mentioned was not paid, and thereupon the said United States commenced an action at law in the court aforesaid, and on the 25th day of August, A. D. 1829, obtained a judgment in their favor against the said defendants for the sum of three thousand seven hundred and sixty-seven dollars and fifty cents, with interest from the time the said bond became due, and the further sum of twenty dollars and sixty cents, the costs of the said suit.

And the said plaintiffs doth further shew unto your honors, that the said defendants have not paid, nor hath either of them, their heirs, executors, or administrators, paid to the said plaintiff the principal sums, with the arrears of interest, and costs of the said several bonds and judgments aforesaid, or any part thereof, as they and each of them were jointly and severally bound to do; and that the several sums of money as aforesaid remain wholly due and unpaid to the said plaintiffs as aforesaid.

And the said plaintiff doth further shew unto your honors, that the said James L. Mifflin, at the time, and long before the death of the said Joseph Archer, was utterly insolvent and unable to pay and discharge his debts. And that the said James L. Mifflin was actually discharged under the acts of assembly of Pennsylvania, passed for the relief of insolvent debtors, as an insolvent debtor before the death of the said Joseph Archer; and the said plaintiff doth further shew, that since the death of the said Joseph Archer the said James L. Mifflin, to wit, on the day of , A. D. 184 , was discharged under the act of Congress, entitled "an act to establish a uniform system of bankruptcy throughout the United States."

And the said plaintiff doth further shew unto your honors, that the said Joseph Archer was, in his lifetime, and at the time of his decease, seized in fee simple, or well entitled to certain freehold messuages, land, and tenements, and possessed of or well entitled to a very considerable personal estate, consisting of household furniture, bonds, mortgages, and other securities for the payment of money and stocks, and divers other effects, to a considerable amount or value, and being of a sound and disposing mind, made and published his last will and testament in writing, in the manner required by law, and duly nominated and appointed a certain Charles Taylor, of the city of Philadelphia, and the aforenamed Charles Bispham, his executors and trustees, with a proviso that if either the said Charles Taylor or Charles Bispham should die or renounce said appointment, then the said Eli K. Price should be an executor and trustee under the said will, in place of either of the said persons so dying or renouncing. That the said Joseph Archer departed this life on or about the 24th day of September, A. D. 1841, without revoking or altering his will as aforesaid. That upon the death of the said Joseph Archer the said Charles Taylor, by an instrument in writing, dated the first day of October, 1841, and filed in the proper office, renounced his executorship and trusteeship as aforesaid, and the said Eli K. Price and Charles Bispham, the will and testament of the said Joseph Archer being

duly proved in the proper register's office, took out letters testamentary upon the estate of the said testator, and by virtue thereof became possessed of all the personal estate and effects of the said testator at the time of his death; which it is alleged and believed were abundantly sufficient to pay all the debts of the said testator; and, if insufficient, were abundantly so to pay the amounts of the said several bonds and judgments as aforesaid, which, by the acts of Congress in such cases made and provided, the said Eli K. Price and Charles Bispham, executors as aforesaid, were bound to pay in preference to all other creditors of the said testator.

And the said plaintiff avers, that the whole of the principal sums, with the arrears of interest and the costs of the said several bonds and judgments, as aforesaid, are still due and payable to the said United States, and that by law and equity the said United States are entitled to be paid the said several sums due to them out of the assets of the estate of the said Joseph Archer, deceased, in the possession of the said Eli K. Price and Charles Bispham, in preference to all other creditors, legatees, and devisees. And the said plaintiff charges, that the said Eli K. Price and Charles Bispham have been selling and disposing of the estate and effects as aforesaid in their possession, and thereby greatly diminishing and wasting the same, to the great injury and loss of the said United States, and in derogation of their rights.

And the said plaintiff doth further show, that on the 25th day of February, A. D. 1843, on the petition of the said Charles Bispham to the orphan's court of the county of Philadelphia, he, the said Charles Bispham, was discharged from his office of executor and trustee as aforesaid.

But now, so it is, that the said Eli K. Price, executor as aforesaid, and the said Charles Bispham, combining, confederating, and contriving to wrong and injure the said United States in the premises, have refused, and still do refuse, to pay to the said United States the aforesaid several sums of money, although often requested so to do.

In consideration thereof, and inasmuch as the said plaintiff can only have relief in the premises in a court of equity, where matters of this kind are properly cognizable and relievable; to the end, therefore, that the said defendants, if they can, show why the said plaintiffs should not have the relief hereby prayed for, and may upon their several and respective corporal oaths, and according to the best of their several and respective knowledge, remembrance, information and belief, full, true, direct, and perfect answer make to such of the several interrogatories hereinafter numbered and set forth, as by the note hereunder written they are respectively required to answer, that is to say—

1. Whether the bonds were not executed and delivered as aforesaid, and of the character and description as aforesaid?

2. Whether judgments at law were not obtained on the said bonds, against the said defendants, at the several dates, and for the several amounts as within stated?

3. Whether the said judgments were not due and payable before the death of the said Joseph Archer?

the said plaintiffs' bill, saith: That he does not know, but has been informed and believes, that the said James L. Mifflin was utterly insolvent, and unable to pay and discharge his debts, before the death of the said Joseph Archer; but when he became so insolvent this defendant is unable to answer, either from information, knowledge, or belief.

And this defendant, further answering unto the fifth interrogatory in the said plaintiffs' bill, saith: That he has been informed and believes that the said James L. Mifflin was discharged as an insolvent debtor, by virtue of the insolvent laws of Pennsylvania, before the death of the said Joseph Archer; but when he does not know.

And this defendant, further answering unto the sixth interrogatory in the said plaintiffs' bill, saith: That he does not know, but has been informed and believes, that the said James L. Mifflin was discharged as a bankrupt, under the act of Congress stated, since the death of the said Joseph Archer.

And this defendant, further answering unto the seventh interrogatory in the said plaintiffs' bill, saith: That he and Charles Bispham did take out letters testamentary to the estate of the said Joseph Archer, in the county of Philadelphia, and State of Pennsylvania; and this defendant and the said Charles Bispham did execute the office of executor of the last will and testament of the said Joseph Archer; and the said Charles Bispham was, on the prayer of his own petition in the orphan's court for the city and county of Philadelphia, on the 23d day of February, 1843, discharged from the office of executor aforesaid.

And this defendant, further answering unto the eighth interrogatory in the said plaintiffs' bill, saith: That the estate and effects which were of the said Joseph Archer, deceased, which passed under his last will and testament into the hands and possession of this defendant, were greater in amount, and those which are now in his hands and possession are greater in amount, than the aggregate of the several sums claimed in said plaintiffs' bill.

And this defendant, further answering unto the ninth interrogatory in the said plaintiffs' bill, saith: That the said executors and this defendant, since he has been sole executor, have sold and disposed of part of the estate which was of the said Joseph Archer, but did not thereby diminish and waste the assets in their hands, nor were such sales in derogation of rights of the plaintiffs; and this defendant further avers, that no part of the said estate has been lost or wasted to his knowledge and belief. And the attorney of the plaintiffs well know, that ample funds have been set aside agreeably to law to meet all claims of the plaintiffs against the estate of the said Joseph Archer, should such claims be established.

And this defendant, further answering unto the tenth interrogatory in the said plaintiffs' bill, saith: That he does not know, nor can he say, whether the bonds and judgments aforesaid, with the arrearages of interest and costs, remain unpaid to the plaintiffs; in point of fact he avers, that a partial payment was made to plaintiffs on the bond conditioned for the payment of six hundred dollars in plaintiffs' bill stated, of the sum of two hundred and forty-two dollars on the sixteenth day of

March, 1833; and whether the said bonds and judgments are unsatisfied to or by the said plaintiffs, or by operation of law, this defendant cannot answer, but submits himself, upon the facts in this his answer stated and set forth, to the adjudication of this honorable court.

And this defendant further answering averreth and saith: That the said Joseph Archer died on the 28th day of September, 1841, and the said James L. Mifflin survived him, and is still surviving.

And this defendant further answering averreth and saith: That the plaintiffs, upon the several judgments in plaintiffs' bill stated, have not, since the rendition thereof, issued or proceeded to execution against the said James L. Mifflin; and this defendant submits, that after so great delay and laches in respect of the same, the plaintiffs can have no remedy against him, this defendant, as executor of the said Joseph Archer, deceased, by reason of any thing set forth in the said plaintiffs' bill, and if any remedy they have, it is at law upon the said judgments.

And this defendant submits to this honorable court, that all and every the matter in the said plaintiffs' bill mentioned and complained of are matters which may be tried and determined at law, and with respect to which the said plaintiffs are not entitled to any relief from a court of equity; and this defendant prays that he may have the same benefit of this defence as if he had demurred to the said plaintiffs' bill.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is by the said bill charged; without this, that there is any other matter or thing in the said plaintiffs' bill of complaint contained, material or necessary for this defendant to make answer unto, and not herein or hereby sufficiently answered, confessed, traversed, and avoided, or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct; and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

W. M. MEREDITH,
JNO. MILES,
Of counsel for def't.

Eli K. Price, the above defendant, being duly affirmed, doth depose and say, that the facts set forth in the above answer are true, and so far as they are stated from the information of others he believes them to be true.

ELI K. PRICE.

Affirmed and subscribed before me, this 4th day of October, A. D. 1843, in open district court U. S.

FRA. HOPKINSON,
Clerk district court.

No. 2737.

Know all men by these presents, that we, J. L. Mifflin [and] J. Archer, are held and firmly bound unto the United States of America in the sum of fifty thousand dollars, to be paid to the said United States; for

the payment whereof we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, dated this 7th day of May, in the year of our Lord one thousand eight hundred and twenty-eight.

A No. 1.

The condition of this obligation is such, that if the above bounden J. L. Mifflin and J. Archer, or either of them, or either of their heirs, executors, or administrators, shall and do, on or before the 7th day of May, 1829, well and truly pay, or cause to be paid, unto the collector of the customs for the district of Philadelphia for the time being, the sum of one thousand four hundred and eighty dollars, or the amount of the duties to be ascertained as due and arising on certain goods, wares, and merchandise entered by the above bounden J. L. Mifflin, as imported in the ship Nassau from Canton, as per entry dated this day, then the above obligation to be void, otherwise to remain in full force and virtue.

$1480. JAMES L. MIFFLIN, [SEAL.]
JOSEPH ARCHER. [SEAL.]

Sealed and delivered in the presence of—
D. GIBSON.

No. 3564.

Know all men by these presents, that we, James L. Mifflin and Joseph Archer, are held and firmly bound unto the United States of America in the sum of fifty thousand dollars, to be paid to the said United States; for the payment whereof we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, dated this 26th day of May, in the year of our Lord one thousand eight hundred and twenty-eight.

A No. 2.

The condition of this obligation is such, that if the above bounden J. L. Mifflin and Joseph Archer, or either of them, or either of their heirs, executors, or administrators, shall or do, on or before the 26th day of May, 1829, well and truly pay, or cause to be paid, unto the collector of the customs for the district of Philadelphia for the time being, the sum of six hundred dollars, or the amount of the duties to be ascertained as due and arising on certain goods, wares, and merchandise, entered by the above bounden J. L. Mifflin as imported in the ship Nassau from Canton, as per entry dated this day, then the above obligation to be void, otherwise to remain in full force and virtue.

$600. JAMES L. MIFFLIN, [SEAL.]
JOSEPH ARCHER. [SEAL.]

Sealed and delivered in the presence of—
D. GIBSON.

No. 3604.

Know all men by these presents, that we, James L. Mifflin and Joseph Archer, are held and firmly bound unto the United States of Amer-

ica in the sum of fifty thousand dollars, to be paid to the said United States; for the payment whereof we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, dated this 3d day of May, in the year of our Lord one thousand eight hundred and twenty-eight.

A No. 3.

The condition of this obligation is such, that if the above bounden James L. Mifflin and Joseph Archer, or either of them, or either of their heirs, executors, or administrators, shall and do, on or before the 3d day of May, 1829, well and truly pay, or cause to be paid, unto the collector of the customs for the district of Philadelphia for the time being, the sum of five thousand one hundred and ninety-four dollars 80 cents, or the amount of the duties to be ascertained as due and arising on certain goods, wares, and merchandise, entered by the above bounden James L. Mifflin, as imported in the ship Nassau from Canton, as per entry dated this day, then the above obligation to be void, otherwise to remain in full force and virtue.

$5194 80. JAMES L. MIFFLIN, [SEAL.]
JOSEPH ARCHER. [SEAL.]

Sealed and delivered in the presence of—
D. GIBSON.

No. 4419.

Know all men by these presents, that we, James L. Mifflin and Joseph Archer, are held and firmly bound unto the United States of America in the sum of fifty thousand dollars, to be paid to the said United States; for the payment whereof we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, dated this 30th day of June, in the year of our Lord one thousand eight hundred and twenty-eight.

A No. 4.

The condition of this obligation is such, that if the above bounden J. L. Mifflin and J. Archer, or either of them, or either of their heirs, executors, or administrators, shall [and] do, on or before the 30th day of June, 1829, well and truly pay, or cause to be paid, unto the collector of the customs for the district of Pennsylvania for the time being, the sum of five hundred and twenty-eight dollars ten cents, or the amount of the duties to be ascertained as due and arising on certain goods, wares, and merchandise, entered by the above bounden J. L. Mifflin as imported in the ship Nassau from Canton, as per entry dated this day, then the above obligation to be void, otherwise to remain in full force and virtue.

$528 10. JAMES L. MIFFLIN, [SEAL.]
JOSEPH ARCHER. [SEAL.]

Sealed and delivered in presence of—
D. GIBSON.

No. 4606.

Know all men by these presents, that we, J. L. Mifflin and J. Archer, are held and firmly bound unto the United States of America in the sum of fifty thousand dollars, to be paid to the said United States; for the payment whereof we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, dated this eighth day of July, in the year of our Lord one thousand eight hundred and twenty-eight.

A No. 5.

The condition of this obligation is such, that if the above bounden J. L. Mifflin and Joseph Archer, or either of them, or either of their heirs, executors, or administrators, shall and do, on or before the 8th day of July, 1829, well and truly pay, or cause to be paid, unto the collector of the customs for the district of Philadelphia for the time being, the sum of thirty-seven hundred and sixty-seven dollars fifty cents, or the amount of the duties to be ascertained as due and arising on certain goods, wares, and merchandise, entered by the above bounden J. L. Mifflin as imported in the ship Nassau from Canton, as per entry dated this day, then the above obligation to be void, otherwise to remain in full force and virtue.

$3767 50. JAMES L. MIFFLIN, [SEAL.]
JOSEPH ARCHER. [SEAL.]

Sealed and delivered in presence of—

The replication of Henry M. Watts, attorney of the United States for the district aforesaid, to the answer of Eli K. Price, executor as aforesaid, defendant.

This repliant, saving and reserving unto the United States all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for the replication thereto saith, that he will aver and prove the said bill to be true and sufficient in law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained material or effectual in law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by the said bill he, on behalf of the United States, hath already prayed.

H. M. WATTS,
Attorney of the U. S. E. D. Pa.

Afterwards, to wit, on the twenty-third day of October, A. D. 1846, it is agreed that the replication to defendant's answer, filed by the complainants, be withdrawn, and that this case be set down for hearing upon bill and answer, and the exhibits attached thereto.

S. M. PETTIT, *for U. S.*
JNO. MILES,
MEREDITH,
Solicitors for respondent.

Afterwards, to wit, on the twenty-seventh day of October, A. D. 1846, this case came on to be heard upon the bill, answer, and the exhibits attached to the answer filed, and the counsel for the complainants and respondents were fully heard.

Thereupon it is ordered and decreed that the complainants' bill be dismissed, and that the defendant is dismissed.

Whereupon, afterwards, to wit, on the twenty-eighth day of January, A. D. 1847, the complainants aforesaid, by their attorney aforesaid, pray leave to appeal from the decree of the said court to the Supreme Court of the United States, and the same is allowed.

UNITED STATES,
Eastern district of Pennsylvania.

I certify the foregoing to be a true and faithful copy of the record and proceedings of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain suit in equity therein lately depending between the United States of America, complainants, and Eli K. Price, executor, &c., and others, defendants.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of said court at Philadelphia, this twenty-
[SEAL.] ninth day of March, A. D. 1847, and in the seventy-first year of the independence of the said United States.

GEORGE PLITT,
Clerk of circuit court.

Filed 7th April, 1847.

No. 4606.

Know all men by these presents, that we, J. L. Mifflin and J. Archer, are held and firmly bound unto the United States of America in the sum of fifty thousand dollars, to be paid to the said United States; for the payment whereof we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, dated this eighth day of July, in the year of our Lord one thousand eight hundred and twenty-eight.

A No. 5.

The condition of this obligation is such, that if the above bounden J. L. Mifflin and Joseph Archer, or either of them, or either of their heirs, executors, or administrators, shall and do, on or before the 8th day of July, 1829, well and truly pay, or cause to be paid, unto the collector of the customs for the district of Philadelphia for the time being, the sum of thirty-seven hundred and sixty-seven dollars fifty cents, or the amount of the duties to be ascertained as due and arising on certain goods, wares, and merchandise, entered by the above bounden J. L. Mifflin as imported in the ship Nassau from Canton, as per entry dated this day, then the above obligation to be void, otherwise to remain in full force and virtue.

$3767 50. JAMES L. MIFFLIN, [SEAL.]
JOSEPH ARCHER. [SEAL.]

Sealed and delivered in presence of—

The replication of Henry M. Watts, attorney of the United States for the district aforesaid, to the answer of Eli K. Price, executor as aforesaid, defendant.

This repliant, saving and reserving unto the United States all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for the replication thereto saith, that he will aver and prove the said bill to be true and sufficient in law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained material or effectual in law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by the said bill he, on behalf of the United States, hath already prayed.

H. M. WATTS,
Attorney of the U. S. E. D. Pa.

Afterwards, to wit, on the twenty-third day of October, A. D. 1846, it is agreed that the replication to defendant's answer, filed by the complainants, be withdrawn, and that this case be set down for hearing upon bill and answer, and the exhibits attached thereto.

S. M. PETTIT, *for U. S.*
JNO. MILES,
MEREDITH,
Solicitors for respondent.

Afterwards, to wit, on the twenty-seventh day of October, A. D. 1846, this case came on to be heard upon the bill, answer, and the exhibits attached to the answer filed, and the counsel for the complainants and respondents were fully heard.

Thereupon it is ordered and decreed that the complainants' bill be dismissed, and that the defendant is dismissed.

Whereupon, afterwards, to wit, on the twenty-eighth day of January, A. D. 1847, the complainants aforesaid, by their attorney aforesaid, pray leave to appeal from the decree of the said court to the Supreme Court of the United States, and the same is allowed.

UNITED STATES,
Eastern district of Pennsylvania.

I certify the foregoing to be a true and faithful copy of the record and proceedings of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain suit in equity therein lately depending between the United States of America, complainants, and Eli K. Price, executor, &c., and others, defendants.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of said court at Philadelphia, this twenty-
[SEAL.] ninth day of March, A. D. 1847, and in the seventy-first year of the independence of the said United States.

GEORGE PLITT,
Clerk of circuit court.

Filed 7th April, 1847.